

ASSEMBLY BILL

No. 140

Introduced by Assembly Member Levine

January 17, 2003

An act to amend Sections 2800.1, 2800.2, and 2800.3 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 140, as introduced, Levine. Vehicles: peace officers: fleeing.

(1) Existing law makes it a misdemeanor for any person while operating a motor vehicle to intentionally evade, willfully flee, or otherwise attempt to evade a pursuing peace officer's motor vehicle or bicycle if certain conditions exist.

This bill would instead make that violation a felony punishable by imprisonment in the state prison for not less than one year nor more than 2 years.

(2) Existing law makes it a misdemeanor, punishable by imprisonment in county jail for not more than 1 year, or a felony punishable by imprisonment in the state prison, or by a fine of not less than \$1,000 nor more than \$10,000, or by both that fine and imprisonment, for any person, while operating a motor vehicle and with the intent to evade, to willfully flee, or to otherwise attempt to evade a pursuing peace officer's motor vehicle or bicycle if certain conditions exist and the pursued vehicle is driven in a willful or wanton disregard for the safety of persons or property.

This bill would instead make that violation a felony punishable by imprisonment in the state prison for not less than 2 years nor more than 3 years.

(3) Existing law makes it a misdemeanor or a felony for any person to willfully flee or attempt to elude a pursuing peace officer and proximately cause serious bodily injury, as defined, or death to any person. A violation of this provision is punishable by specified terms of imprisonment in the county jail or in the state prison for 3, 4, or 5 years, by specified fines, or by both the fines and imprisonment.

This bill would no longer provide that this violation is punishable as a misdemeanor.

(4) By making these violations felonies, this bill would thereby impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2800.1 of the Vehicle Code is amended
2 to read:

3 2800.1. (a) ~~Any~~ A person who, while operating a motor
4 vehicle and with the intent to evade, willfully flees or otherwise
5 attempts to elude a pursuing peace officer's motor vehicle, is guilty
6 of a ~~misdemeanor~~ *felony* if all of the following conditions exist:

7 (1) The peace officer's motor vehicle is exhibiting at least one
8 lighted red lamp visible from the front and the person either sees
9 or reasonably should have seen the lamp.

10 (2) The peace officer's motor vehicle is sounding a siren as may
11 be reasonably necessary.

12 (3) The peace officer's motor vehicle is distinctively marked.

13 (4) The peace officer's motor vehicle is operated by a peace
14 officer, as defined in Chapter 4.5 (commencing with Section 830)
15 of Title 3 of Part 2 of the Penal Code, and that peace officer is
16 wearing a distinctive uniform.

17 (b) ~~Any~~ A person who, while operating a motor vehicle and
18 with the intent to evade, willfully flees or otherwise attempts to



1 elude a pursuing peace officer's bicycle, is guilty of a
2 ~~misdemeanor~~ *felony* if the following conditions exist:

3 (1) The peace officer's bicycle is distinctively marked.

4 (2) The peace officer's bicycle is operated by a peace officer,
5 as defined in paragraph (4) of subdivision (a), and that peace
6 officer is wearing a distinctive uniform.

7 (3) The peace officer gives a verbal command to stop.

8 (4) The peace officer sounds a horn that produces a sound of at
9 least 115 decibels.

10 (5) The peace officer gives a hand signal commanding the
11 person to stop.

12 (6) The person is aware or reasonably should have been aware
13 of the verbal command, horn, and hand signal, but refuses to
14 comply with the command to stop.

15 (c) *A person who violates this section, upon conviction, shall*
16 *be punished by imprisonment in the state prison for not less than*
17 *one year nor more than two years.*

18 SEC. 2. Section 2800.2 of the Vehicle Code is amended to
19 read:

20 2800.2. (a) If a person flees or attempts to elude a pursuing
21 peace officer in violation of Section 2800.1 and the pursued
22 vehicle is driven in a willful or wanton disregard for the safety of
23 persons or property, the person driving the vehicle, upon
24 conviction, shall be punished by imprisonment in the state prison;
25 ~~or by confinement in the county jail for not less than six months~~
26 ~~two years nor more than one year~~ *three years*. The court may also
27 impose a fine of not less than one thousand dollars (\$1,000) nor
28 more than ten thousand dollars (\$10,000), or may impose both that
29 imprisonment ~~or confinement~~ and fine.

30 (b) For purposes of this section, a willful or wanton disregard
31 for the safety of persons or property includes, but is not limited to,
32 driving while fleeing or attempting to elude a pursuing peace
33 officer during which time either three or more violations that are
34 assigned a traffic violation point count under Section 12810 occur,
35 or damage to property occurs.

36 SEC. 3. Section 2800.3 of the Vehicle Code is amended to
37 read:

38 2800.3. Whenever willful flight or attempt to elude a pursuing
39 peace officer in violation of Section 2800.1 proximately causes
40 death or serious bodily injury to any person, the person driving the

1 pursued vehicle, upon conviction, shall be punished by
2 imprisonment in the state prison for three, four, or five years, ~~by~~
3 ~~imprisonment in the county jail for not more than one year,~~ or by
4 a fine of not less than two thousand dollars (\$2,000) nor more than
5 ten thousand dollars (\$10,000), or by both that fine and
6 imprisonment.

7 For purposes of this section, “serious bodily injury” has the
8 same meaning as defined in paragraph (4) of subdivision (f) of
9 Section 243 of the Penal Code.

10 SEC. 4. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.

